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MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,564,784 : DECISION ON REQUEST
Forssell et al. : FOR
Issue Date: July 21, 2009 : RECONSIDERATION OF
Application No. 10/699,162 : PATENT TERM ADJUSTMENT
Filed: October 31, 2003 : and
Atty Docket No. 088245-1332 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 11, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred eighty-seven (1,287) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred eighty-six (1286) days.

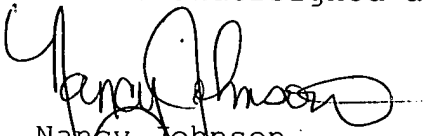
The B delay is 414 days, not 415 days. The over three year period is 652 days as the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B delay, the over three year period began on November 1, 2006, and ended on August 13, 2008, the day before the RCE was filed. See 35 U.S.C. § 154(b)(1)(B)(i). Patentee's calculation of B delay appears to include correct calculations of 181 overlapping days and 57 days excluded for appellate review. Accordingly, the patent term adjustment is increased by 414 (652 - (181 + 57)) days to a revised patent term adjustment of 1286 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand two hundred eighty-six **(1,286)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,564,784 B2

DATED : July 21, 2009

DRAFT

INVENTOR(S) : Forssell et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 872 days

Delete the phrase "by 872 days" and insert – by 1286 days--